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FOIA Request for Records Associated with EPA's Response to the Great Bay Coalition's Scientific Misconduct Letter

Keisha Sedlacek to: FOIA HQ

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Cc: "dbisbee@devinemillimet.com" , "John E. Peltonen"
(JPELTONEN@sheehan.com)" , "aws@Rathlaw.com",

To Whom This May Concern:

Please find attached a Freedom for Information Act (FOIA) request for records associated with EPA's Response to the Great Bay Coalition's Scientific Misconduct Letter. If you have any questions, please do not hesitate to contact this office.

Sincerely,

Keisha Sedlacek

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FOIA Request in Response to N Stoner Science Misconduct Letter.pdf

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October 4, 2012

VIA E-MAIL

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW (2822T)
Washington, D.C. 20460
E-mail: hq.foia@epa.gov

RE: Freedom of Information Act Request for Records Associated with EPA's Response to the Great Bay Municipal Coalition's Scientific Misconduct Letter

To Whom This May Concern:

This is a request for public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. This request is submitted by Hall & Associates on behalf of the Great Bay Municipal Coalition ("the Coalition"). For purposes of this request, the definition of "records" includes, but is not limited to, documents, letters, memoranda, notes, reports, e-mail messages, policy statements, data, technical evaluations or analysis, and studies.

Background:

On May 4, 2012, the Coalition submitted a letter to EPA Administrator Lisa Jackson and Inspector General Arthur A. Elkins, Jr. requesting (1) the review of Great Bay water quality criteria compliance and permitting be withdrawn from EPA Region I and transferred to an independent panel of experts who can assess the scientific basis of the Region's position and (2) the Region's actions leading to this request be investigated by the Office of Inspector General. The May 4, 2012, letter outlined, in detail, why EPA Region I's stance on imposing stringent TN limitations is based on the improper use of data and analyses to support a desired outcome and is not grounded in sound science. Additionally, the letter described how EPA has refused to allow an open peer review with public involvement in the process. Related to this request, the Coalition has met with EPA and submitted supplemental information to Ellen Gilinsky, Senior Policy Advisor, EPA's Office of Water on this issue.

In response to the Coalition's detailed allegations of misconduct, Nancy Stoner, EPA's Acting Assistant Administrator, responded to the Coalition on September 27, 2012, stating EPA "has not seen any evidence that Region I engaged in scientific misconduct." The letter does not offer any explanation into the facts relied upon EPA's Office of Water and the Interim Science Integrity Official to determine any of the Coalition's allegations were, in fact, unsupported. EPA simply reaches a conclusory, final agency decision that science misconduct has not occurred. Since EPA reached a final agency decision, there should be an administrative record demonstrating that the factual statements and conclusions present in the Coalition's various correspondences on this matter were incorrect.

Request:

Please provide us with the records relied upon by the EPA's Office of Water and the Interim Science Integrity Official to determine that scientific misconduct, as alleged in the May 4, 2012, letter to the agency has not occurred. More specifically, please provide:

1. Emails or correspondence between EPA Headquarters and any outside party including, but not limited to, EPA Region I, New Hampshire Department of Environmental Services, Conservation Law Foundation, or Dr. Fred Short regarding the Coalition's allegations.
2. The administrative record, excluding emails from the Coalition or the Coalition's counsel, relied upon by EPA Headquarters in rendering the decision that no scientific misconduct has occurred in this case.
3. Any documents, developed by EPA Headquarters or its contractors, including fact sheets, internal assessments, briefing memorandums, meeting minutes, which evaluated and/or discussed whether or not EPA Region I engaged in scientific misconduct.

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsible to this request and send them to the undersigned at the above address. If any requested records are withheld based upon any asserted privilege, please identify the basis for the non-disclosure. Moreover, to the extent EPA asserts that a document, or portions thereof, is privileged, the Agency is still responsible for producing the non-privileged portions of that document. If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that agency resources are conserved and only the necessary documents are reproduced.

Sincerely,

/s/ John C. Hall

JOHN C. HALL

cc: Great Bay Municipal Coalition